

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of:

Yik, *et al.*

Serial No.: 09/866,259

Filed: May 25, 2001

For: Data Network Mode Having Enhanced Security Features

Confirmation Number: 5515

Group Art Unit: 2439

Examiner: Tolentino, Roderick

Docket No.: 250338-1470

**REPLY BRIEF**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Examiner's Answer mailed January 4, 2010 has been carefully considered. In response thereto, please consider the following remarks.

**AUTHORIZATION TO DEBIT ACCOUNT**

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

## REMARKS

The Examiner has provided in the Examiner's Answer various responses to arguments contained in Appellants' Appeal Brief. Although the Examiner's Answer has added some additional remarks in response to Appellants' arguments, the substance of the rejections and the Examiner's positions have not changed. Accordingly, Appellants stand behind the arguments set forth in the Appeal Brief. In addition, Appellants address selected responses in the following.

### **I. STATUS OF THE CLAIMS**

Claims 1 – 20 stand finally rejected. No claims have been allowed. The final rejections of claims 1 – 20 are appealed.

### **II. Claims 1 – 20 are Allowable**

The Examiner continues to argue the validity of *Lee* as a 35 U.S.C. §102(e) reference by utilizing the filing date of the *Lee Provisional*. Appellant continues to disagree. More specifically, the Examiner admits that the *Lee Provisional* only teaches “Each port has a special flag indicating whether the port is enabled (versus disabled)” (Examiner's Answer page 8, line 10, quoting *Lee Provisional*, page 9). As illustrated, the *Lee Provisional* only supports an enablement flag, which is completely different than “**a plurality of switching entry protection flags**, corresponding to the plurality of switching entries, each of the plurality of switching entry protection flags configured with a predetermined value that **determines whether each of the switching entries is protected from update**” as recited in claim 1. More specifically, the “enablement flag” of *Lee* indicates whether a port is enabled or not. Claim 1 by contrast, indicates that “switching entry protection flags” determine whether switching entries in a database are protected from update.

To further support this argument, Appellant refers to MPEP §706.02(VI)(D), which states “[i]f the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which **are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application**” (emphasis added). In no way would an enablement flag fully support “**a plurality of switching entry protection flags**, corresponding to the plurality of switching entries, each of the plurality of switching entry protection flags configured with a predetermined value that **determines whether each of the switching entries is protected from update**” to fulfill the requirements of 35 U.S.C. §112, first paragraph. For at least this reason, reliance on the *Lee Provisional* is improper.

Additionally, the Examiner continues to argue that this claim element is merely a design choice and is thus intended use. Again, this is simply an invalid argument. More specifically, the Examiner argues “Appellant’s invention is essentially a node with a plurality of ports” (Examiner’s Answer, page 8, line 17). Appellant first submits that claim 1 is **not** merely a node and a plurality of ports and such an oversimplification by the Examiner exemplifies the level of examination given in this case. Contrary to the Examiner’s classification and as clearly and explicitly recited, claim 1 includes (among other elements) a controller that is configured to execute a program that is stored in the switching database. Consequently, the **physical configuration** of the controller and/or the database will be different for “**a plurality of switching entry protection flags**, corresponding to the plurality of switching entries, each of the plurality of switching entry protection flags configured with a predetermined value that **determines whether each of the switching entries is protected from update**” than if the claim merely recited an enablement flag, because there is a change in the database entries and the controller will operate differently, regardless of whether the ports are enabled or disabled.

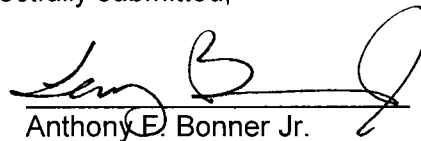
The Examiner additionally introduces an inherency argument to argue that an enablement flag will necessarily indicate whether the port is protected from update. Again, this is an invalid argument. More specifically, switching entry protection flags indicate whether a “switching entry” in a “switching database” is protected from update. This has nothing to do with whether a port is enabled or disabled. Consequently, while a port may be enabled or disabled, this has nothing to do with whether a switching entry in the switching database is protected from update. For at least these reasons, this rejection is improper and claim 1 should be allowed. Similar arguments may be applied to claims 2 – 20.

### **CONCLUSION**

In summary, it is Appellants' position that Appellants' claims are patentable over the applied cited art references and that the rejection of these claims should be withdrawn. Appellants therefore respectfully request that the Board of Appeals overturn the Examiner's rejection and allow Appellants' pending claims.

Respectfully submitted,

By:



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